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## All Fuel Tax and Fee Programs

### 1. New Legislation

The following summaries reflect legislative changes enacted during the 2000 legislative session affecting the fuel tax programs administered by the State Board of Equalization. The changes are effective January 1, 2001, unless otherwise indicated. For copies of bills, please write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814, or access them on the Internet at [www.leginfo.ca.gov/bilinfo.html](http://www.leginfo.ca.gov/bilinfo.html).

### ***Sale of Tax/Feepayer Information Prohibited***

Assembly Bill 1965 (Stats. 2000, ch 962) prohibits the Board from releasing the names and addresses of individuals who are registered with, or who hold licenses or permits issued by the Board, except to the extent necessary to verify resale certificates or to administer the tax and fee provisions of the Revenue and Taxation Code. This law further

provides that these provisions do not prohibit the release by the Board to, or limit the use by, any federal or state agency, or local government, of any data collected by the Board that is otherwise authorized by law.

### ***Excise Tax on Gasoline at the Terminal Rack***

Assembly Bill 2114 (Stats. 2000, ch 1053, effective 01/01/02) moves the point of taxation on motor vehicle fuel to the refinery or terminal rack level, bringing the state excise tax on motor vehicle fuel into uniformity with the state diesel fuel tax and federal fuel tax. Additionally, this change conforms the motor vehicle fuel tax to the state diesel fuel tax and the federal tax law with respect to definitions and exemptions and provides for a backup tax, which would apply to gasoline delivered into the fuel tank of a motor vehicle or the sale of motor vehicle fuel when the tax had previously been refunded on the fuel, or the liquid had not been taxed at all. A provision of the law imposes a floor stock tax on all motor vehicle fuel owned on January 1, 2002, by a distributor (supplier) in the distribution chain below the refinery or terminal rack on which tax has not been charged.

With the passage of this bill, the Board will take advantage of the federal database regarding fuel movements, participant identification, terminal location identification and tax collections. This electronic reporting will provide a powerful real time audit and enforcement tool to California.

At the October 31, 2000, meeting of the Board's Legislative Committee, the Board Members supported the concept of moving the prepaid sales tax on gasoline, diesel, and jet fuel to the refinery or terminal rack as a year 2001 Board-sponsored legislative proposal.

**Note — taxation of jet fuel.** A recent Commerce Clearing House update erroneously stated that AB 2114 moved the point of taxation on jet fuel to the

rack effective January 1, 2002. Please note that AB 2114 did not change the point of taxation on jet fuel. The only change made to the Aircraft Jet Fuel Tax Law was the renumbering of the law sections to accommodate the new Motor Vehicle Fuel Tax Law. The tax on aircraft jet fuel continues to be imposed on the sale or use of jet fuel and is due at the time a jet fuel dealer uses jet fuel or sells jet fuel to a user in California.

### ***Mandatory Electronic Fund Transfer (EFT) for Fuel Tax Programs***

Assembly Bill 2894 (Stats. 2000, ch 923) provides for the payment of fuel taxes and underground storage tank fees by electronic funds transfer (EFT). The payment by EFT is mandatory for all tax or fee return payments and prepayments due on or after February 1, 2001, on accounts whose estimated tax liability averages twenty thousand dollars (\$20,000) or more per month. In October 2000, the Fuel Taxes Division sent a *Notice of Mandatory Electronic Funds Transfer (EFT) Requirement* to persons whose average monthly tax or fee liability was at least \$20,000 over the twelve months from April 1, 1999, through April 1, 2000. The notice included an EFT Information Guide and application. If you were not one of the persons so notified that you are required to pay by EFT, but would like to voluntarily register to make tax or fee return payments by EFT, please contact the Fuel Taxes Division at 916-322-9669 to obtain an EFT application. Please note that even if you pay by EFT, you must continue to file your tax or fee returns on paper with the Board by the due date.

### ***Taxpayer Bill of Rights Updates***

Assembly Bill 2898 (Stats. 2000, ch 1052) sponsored by the Board, makes the changes listed below to all fuel tax programs with exceptions being noted.

- ***Installment Agreement Annual Statement.*** Requires the Board to provide each tax/feepayer who has an installment payment agreement with an annual statement identifying the initial balance at the beginning of the year, payments made during the year, and the remaining balance as of the end of the year. This requirement does not pertain to the Motor Vehicle Fuel License Tax Law.
- ***Relief of Late Payment Penalty on Installment Agreements.*** Except in the case of fraud, if an installment payment agreement is entered into within 45 days from the due date of the

tax, and the tax/feepayer complies with the terms of the installment payment agreement, the Board shall relieve the late payment penalty. This relief is not available for the Motor Vehicle Fuel License Tax Law.

- ***Disclosure of Confidential Tax/Feepayer Information.*** Prohibits tax preparers from disclosing information furnished to the tax preparer in connection with the preparation of a return or using the information for an unrelated purpose except with the taxpayer's consent or pursuant to a subpoena, court order or other compulsory legal process. Knowingly or recklessly disclosure of information furnished in connection with preparation of the returns or use of the information for any purpose other than to prepare the returns is a misdemeanor.
- ***Award for Fees and Expenses.*** Every taxpayer or feepayer is entitled to be reimbursed for reasonable fees and expenses incurred after the date of the notice of determination, jeopardy determination or claim for refund, and related to a Board Hearing if certain conditions are met.
- ***Statute of Limitation for Periods of Disability.*** Permits the tolling of the statute of limitations for filing a claim for refund during any period in which a person is financially disabled. A person is not financially disabled during any period in which the person's spouse or any other person is authorized to act on behalf of the person in financial matters. A person is "financially disabled" if the person is unable to manage his or her financial affairs by reason of medically determined physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

## **2. New Investigations Division**

*To effectively combat tax evasion in California, the Board has consolidated its various investigation units into a single Investigations Division.* — Editor

The Investigations Division administers the Board's criminal investigations program. The division plans, organizes, directs, and controls all criminal investigative activities for the various tax programs administered by the Board. Its goals are to identify tax evasion problems, recommend

solutions to address those problems, identify new fraud schemes, and actively investigate and assist in the prosecution of crimes committed by individuals who are violating the laws administered by the Board.

Evasion takes place in all of the tax programs administered by the Board. Some examples of evasion include:

- Retailers and others who collect sales tax on sales but intentionally fail to report and pay the tax collected;
- Fuel retailers who blend waste petroleum products into gasoline or diesel and then sell the fuel as tax-paid but do not remit the taxes; and
- Retailers who sell untaxed cigarettes, untaxed tobacco products, cigarettes that are labeled “U.S. Tax Exempt, For Export Only” or have counterfeit tax stamps affixed to the packages of cigarettes.

The penalties for evasion vary with the tax program. Persons convicted of felony fraud offenses are subject to fines and/or imprisonment. The fraud penalty can be a fine of \$5,000 to \$20,000, or imprisonment for 16 months, two years or three years or both the fine and imprisonment at the discretion of the court.

If you suspect fraudulent activity, or believe a business should be reporting taxes and is not, you may call the Investigations Division, 916-324-0105; call our Tax Evasion Hotline at 1-888-334-3300; send a fax to the Investigations Division at 916-324-1578; or write to:

Investigations Division  
450 N Street, MIC:42  
P.O. Box 942879  
Sacramento, CA 94279-0042

### 3. Partnership Agreements

When applying for a new permit, partnerships should provide a copy of their written partnership agreement, if one exists. If you file a copy of your agreement with the Board at the time you apply for a permit or license and your agreement specifies that all business assets are held in the name of the partnership, the law requires the Board to attempt to collect any delinquent tax liability from the partnership assets before it attempts to collect from the partners' personal assets. You should also notify us immediately if you add or drop partners.

## Diesel Fuel Tax Program

### 4. Claims for Diesel Fuel Tax Refunds — How Can I Expedite the Process?

There are several tips to follow that will help expedite your “Claim for Refund of Diesel Fuel Tax on Nontaxable Uses,” Form BOE-770-DU. For example, you should:

- File claims only for the period indicated on the claim form and as allowed by statute — quarterly if your refund claim is at least \$750 or annually (for a calendar year) if your refund claim is less than \$750.
- Include a complete listing of individual purchases of diesel fuel on Schedule A of the claim form, including diesel fuel used both on and off the highway. If you purchased dyed diesel fuel, explain how it was used and why you still need to buy additional clear diesel fuel for exempt uses.
- Include with every claim any worksheets or logs you used to calculate the gallons of diesel fuel being claimed exempt from tax.
- Make sure the current test results and supporting data, which substantiate exempt uses, are on file with the Board, Fuel Industry Section, to support refund claims you file.
- Provide an updated *Diesel Questionnaire* whenever your business practices or equipment changes. The equipment list should include the type of fuel used — for example, gasoline, diesel, and so forth — along with information on the off-highway use of the equipment, including the percentage of on and off-highway use.
- If there is a significant change from previous claims in the number of diesel fuel gallons subject to your claim, either more or less, include a brief summary of the business practices that brought about the change.

If you have any questions, please contact the Fuel Taxes Division at 916-322-9669.

### 5. Interstate Users — How Much Fuel Tax Reimbursement Can Fuel Suppliers Charge?

When you buy diesel fuel in California, your supplier, vendor, or credit card company will collect tax reimbursement for state taxes, including the tax on diesel fuel. On billing statements or invoices, the diesel fuel tax may be referred to as

the “state excise tax,” or SET. Sellers cannot collect more than 18 cents per gallon as reimbursement for the diesel fuel (or “state excise”) tax.

See also article 6 for the new tax rate to take effect January 1, 2001.

## International Fuel Tax Agreement (IFTA)

### 6. Tax Rate Change for 2001 IFTA and Interstate User Diesel Fuel Licenses

The tax you normally report and pay with your quarterly fuel tax return for diesel fuel that you purchase outside California and use in the state has been increased to *27.1 cents per gallon* for the period January 1, 2001 through December 31, 2001. You may also claim a credit of 27.1 cents per gallon for the gallons of tax-paid diesel fuel purchased in California and used outside the state.

The 27.1 cents per gallon rate reflects

- 18 cents per gallon diesel fuel tax, and
- An additional excise tax of 9.1 cents per gallon. (This rate is equal to 7.25 percent of the average retail price of motor vehicle fuel sold in California. This amount is calculated annually for the period January 1 through December 31.)

If you have any questions concerning this change, please call the Fuel Taxes Division at 916-322-9669 or call our Information Center, 1-800-400-7115.

### 7. Year 2001 License Renewals

You should have already received an application in the mail to renew your IFTA license for the year 2001. Applications were mailed to current IFTA registrants starting in September 2000. You must renew your license each year and should call if you have not received your application. Call the Fuel Taxes Division at 916-322-9669, or call our Information Center at 1-800-400-7115 (select “other taxes” and “fuel taxes”).

If you completed and returned your application by November 15, 2000, you should receive your 2001 IFTA credentials by mid-December (IFTA credentials include your IFTA license and decals). Your 2001 credentials will be valid from January 1, 2001 through December 31, 2001.

If you submit an incomplete application or send insufficient funds with your application, your 2001

credentials will not be issued until the problem is resolved. Likewise, your 2001 credentials will be withheld if you are delinquent for any reporting period or have an outstanding liability with the Board, or if your 2000 credentials were revoked for any reason. Contact the Fuel Taxes Division at 916-322-9669 to resolve any outstanding issues or if there are problems with your 2001 IFTA credentials.

**Grace period.** Subject to the conditions described below, IFTA carriers are allowed a two-month grace period, from January 1, 2001 through February 28, 2001, before being required to display their 2001 license and decals. To qualify for the grace period, you must maintain the proper 2000 credentials and be in good standing (in other words, have no delinquencies, monies due, or revocation). You also must have applied for your 2001 IFTA credentials by December 31, 2000.

## For More Information

**Fuel Taxes Division.** If you have questions or comments, call us at 916-322-9669, or write to: Fuel Taxes Division, MIC:30; State Board of Equalization; P.O. Box 942879; Sacramento, CA 94279-0030.

**Internet.** Visit us at [www.boe.ca.gov](http://www.boe.ca.gov) to obtain information on tax rates, publications, legislation, regulations, telephone numbers, education programs, public meetings, and so forth.

**Tax Evasion Hotline.** To report suspected tax evasion, please call toll-free, 1-888-334-3300.

**Copies of Legislative Bills.** Write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814. Or visit the following website: [www.leginfo.ca.gov](http://www.leginfo.ca.gov). The Bill Room does not provide copies of Board forms or publications.

**Taxpayers' Rights Advocate.** If you need help with a problem you have been unable to resolve at other levels, please contact the Advocate's office for assistance. Call 1-888-324-2798.